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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.
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09/051,685 08/19/98 SANDERSON

S UNMC63102

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DANN DORFMAN HERRELL & SKILLMAN
SUITE 720
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PHILADELPHIA PA 19103-2307

EXAMINER

VANDER VEGT, F

ART UNIT

PAPER NUMBER

1644

DATE MAILED:

01/06/00

Please find below and/or attached an Office communication concerning this application or proceeding.

Commissioner of Patents and Trad marks

Office Action Summary

Application No.
09/051,685

Applicant(s)
Sanderson et al

Examiner
F. Pierre VanderVegt

Group Art Unit
1644



☒ Responsive to communication(s) filed on Oct 6, 1999

☐ This action is **FINAL**.

☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11; 453 O.G. 213.

A shortened statutory period for response to this action is set to expire three month(s), ~~or thirty days, whichever is longer~~, from the mailing date of this communication. Failure to respond within the period for response will cause the application to become abandoned. (35 U.S.C. § 133). Extensions of time may be obtained under the provisions of 37 CFR 1.136(a).

Disposition of Claims

☒ Claim(s) 1-24 ~~is~~/are pending in the application.

Of the above, claim(s) 8, 9, and 18-24 ~~is~~/are withdrawn from consideration.

☐ Claim(s) _____ is/are allowed.

☒ Claim(s) 1-6 and 10-17 ~~is~~/are rejected.

☒ Claim(s) 7 ~~is/are~~ objected to.

☐ Claims _____ are subject to restriction or election requirement.

Application Papers

☐ See the attached Notice of Draftsperson's Patent Drawing Review, PTO-948.

☐ The drawing(s) filed on _____ is/are objected to by the Examiner.

☐ The proposed drawing correction, filed on _____ is ☐ approved ☐ disapproved.

☐ The specification is objected to by the Examiner.

☐ The oath or declaration is objected to by the Examiner.

Priority under 35 U.S.C. § 119

☐ Acknowledgement is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d).

☐ All ☐ Some* ☐ None of the CERTIFIED copies of the priority documents have been
☐ received.

☐ received in Application No. (Series Code/Serial Number) _____.

☐ received in this national stage application from the International Bureau (PCT Rule 17.2(a)).

*Certified copies not received: _____.

☐ Acknowledgement is made of a claim for domestic priority under 35 U.S.C. § 119(e).

Attachment(s)

☒ Notice of References Cited, PTO-892

☒ Information Disclosure Statement(s), PTO-1449, Paper No(s). 5

☐ Interview Summary, PTO-413

☐ Notice of Draftsperson's Patent Drawing Review, PTO-948

☐ Notice of Informal Patent Application, PTO-152

--- SEE OFFICE ACTION ON THE FOLLOWING PAGES ---

DETAILED ACTION

This application claims priority to provisional application 60/005,727 and PCT/US96/16825.

Page 1 of the specification should be amended to properly identify the priority applications.

Claims 1-24 are currently pending in this application.

Election/Restriction

1. Applicant's election without traverse of Group I, claims 1-17, in Paper No. 10, filed October 6, 1999, is acknowledged.

Applicant's further election without traverse of the species drawn to C5a receptor as the target ligand, specifically reading upon claims 4-7 and 10-17 with claims 1-3 being generic, in Paper No. 10, filed October 6, 1999, is also acknowledged.

Claims 8 and 9 are withdrawn from further consideration by the Examiner, 37 CFR 1.142(b) as being drawn to a non-elected specie. Election was made **without** traverse in Paper No. 10.

Claims 18-24 are withdrawn from further consideration by the Examiner, 37 CFR 1.142(b) as being drawn to a non-elected invention. Election was made **without** traverse in Paper No. 10. It is noted that Applicant intended to cancel non-elected claims 18-24 in the remarks of Paper No. 10, however Applicant did not properly direct an amendment canceling said claims.

Accordingly, claims 1-7 and 10-17 are the subject of examination in the present office action.

Claim Rejections - 35 U.S.C. § 112

2. Claims 1-6 and 10-17 are rejected under 35 U.S.C. 112, second paragraph, as being indefinite for failing to particularly point out and distinctly claim the subject matter which Applicant regards as the invention.

Base claim 1 is ambiguous and unclear in its recitation of "functionally linked" in line 5 of the claim. It is not readily apparent what is encompassed by the term. Does it mean that the targeting ligand and immunogen are fused, covalently bonded, non-covalently associated, mixed in a composition or of similar function? It is noted that the broadest reasonable interpretation of the term "functionally linked" would not require physical attachment of the adjuvant to the immunogen as a single construct, rather it would require only that the response to the adjuvant affects the response to the immunogen. As such, the claim would be solely drawn to the adjuvant with the recitation of particular immunogen not modifying the adjuvant, as such recitation would essentially constitute an intended use or preferred embodiment which does not physically change the adjuvant. Applicant should clarify the meaning by pointing to a definition of the term in the specification, which could not be found, or amend the claim commensurate in scope with the disclosed invention.

Claim Rejections - 35 U.S.C. § 102

The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office Action:

A person shall be entitled to a patent unless --

(b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.

3. Claims 1-6, 10-11, 13, 14, 16 and 17 are rejected under 35 U.S.C. 102(b) as being anticipated by Goodman et al (U on form PTO-892).

The Goodman et al reference teaches the use of C5a as an adjuvant which enhances the delivery of sheep red blood cells to the processing pathway of murine antigen presenting cells (Abstract in particular). Applicant is reminded that the broadest reasonable interpretation of the term "functionally linked" does not require physical attachment, rather it requires only that the response to the adjuvant, C5a, affects the response to the immunogen, SRBCs. Claims and are included because the recited peptides are internal to the full length sequence of C5a and Applicant is reminded that recitation of "comprising," which is an open term, opens the language of the

claim to include additional amino acid residues up to, and including the full-length sequence of proteins comprising the sequence.

Allowable Subject Matter

4. Claim 7 is objected to as being dependent upon a rejected base claim, but would be allowable, within the elected scope, if rewritten in independent form including all of the limitations of the base claim and any intervening claims.

Conclusion

5. The specification has not been checked to the extent necessary to determine the presence of all possible minor errors. Applicant's cooperation is requested in correcting any errors of which Applicant may become aware in the specification.

6. Papers related to this application may be submitted to Technology Center 1600, Group 1640 by facsimile transmission. Papers should be faxed to Group 1640 via the PTO Fax Center located in Crystal Mall 1. The faxing of such papers must conform with the notice published in the Official Gazette, 1096 OG 30 (November 15, 1989). The fax phone number for official documents to be entered into the record for Art Unit 1644 is (703)305-3014.

Any inquiry concerning this communication or earlier communications from the Examiner should be directed to F. Pierre VanderVegt, whose telephone number is (703)305-6997. The Examiner can normally be reached Tuesday through Friday and even-numbered Mondays (on 1999 365-day calender) from 7:00 am to 4:00 pm ET. A message may be left on the Examiner's voice mail service. If attempts to reach the Examiner by telephone are unsuccessful, the Examiner's supervisor, Ms. Christina Chan can be reached at (703)308-3973. Any inquiry of a general nature or relating to the status of this application should be directed to the Technology Center 1600 receptionist, whose telephone number is (703)308-0196.



F. Pierre VanderVegt, Ph.D.
Patent Examiner
Technology Center 1600
December 16, 1999